

## CCRB INVESTIGATIVE RECOMMENDATION


Investigator: Tiffany Dempsey	Team: Squad #11	CCRB Case #: 201403223	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 04/04/2014 9:00 AM	Location of Incident: § 87(2)(b)	Precinct: 120	18 Mo. SOL 10/4/2015	EO SOL 10/4/2015	
Date/Time CV Reported Fri, 04/04/2014 10:33 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 04/04/2014 10:33 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Daniel Castillo	16422	945566	WARRSEC
2. DT3 Matthew Puma	06827	916473	WARRSEC
3. SDS David Gomes	05024	917690	WARRSEC
4. DT3 Mathew Odonnell	06480	902123	WARRSEC
5. An officer			WARRSEC

Officer(s)	Allegation	Investigator Recommendation
A.POM Daniel Castillo	Abuse: PO Daniel Castillo damaged § 87(2)(b) s property.	
B. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b)	
C.POM Daniel Castillo	Abuse: PO Daniel Castillo entered and searched § 87(2)(b) in Staten Island.	
D.SDS David Gomes	Abuse: Sgt. David Gomes entered and searched § 87(2)(b) in Staten Island.	
E.DT3 Mathew Odonnell	Abuse: Det. Mathew O'Donnell entered and searched § 87(2)(b) in Staten Island.	
F.DT3 Matthew Puma	Abuse: Det. Matthew Puma entered and searched § 87(2)(b) in Staten Island.	
G.POM Daniel Castillo	Discourtesy: PO Daniel Castillo spoke discourteously to § 87(2)(b)	
H.SDS David Gomes	Discourtesy: Sgt. David Gomes spoke discourteously to § 87(2)(b)	
I.DT3 Matthew Puma	Discourtesy: Det. Matthew Puma spoke discourteously to § 87(2)(b)	
J.DT3 Mathew Odonnell	Discourtesy: Det. Mathew O'Donnell spoke discourteously to § 87(2)(b) and § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
K.DT3 Mathew Odonnell	Abuse: Det. Mathew O'Donnell threatened to notify Administration for Children's Services.	

### Case Summary

On April 4, 2014, at approximately 9:00 a.m., PO Daniel Castillo, Sgt. David Gomes, Det. Mathew O'Donnell, and Det. Matthew Puma of the Staten Island Warrant Section arrived at § 87(2)(b) with a Supreme Court arrest warrant and an I-card for § 87(2)(b) § 87(2)(b) believing the apartment was § 87(2)(b) within the § 87(2)(b). PO Castillo damaged the apartment door, and an officer allegedly spoke discourteously while knocking on the door (**Allegations A and B**). Once the door was opened, PO Castillo, Sgt. Gomes, Det. O'Donnell, and Det. Puma entered and subsequently searched the apartment (**Allegations C, D, E, and F**). PO Castillo, Sgt. Gomes, and Det. Puma allegedly spoke discourteously to § 87(2)(b) (**Allegations G, H, and I**), and Det. O'Donnell allegedly also spoke discourteously to both § 87(2)(b) and her § 87(2)(b)-year-old daughter § 87(2)(b) who was also present inside the apartment (**Allegation J**). While exiting the apartment, Det. O'Donnell allegedly threatened to notify Administration for Children Services (ACS) (**Allegation K**) (complaint encl. D1-3; CCRB statement encl. D4-24; video transcription encl. E1-4). § 87(2)(b) was neither arrested nor summonsed in regards to this incident.

### Mediation, Civil and Criminal Histories

§ 87(2)(b) rejected mediation on April 9, 2014 (encl. D7). As of October 17, 2014, a Notice of Claim has not been filed in regards to this case (encl. H17). § 87(2)(b) has no prior criminal convictions (encl. I40).

### Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by or involving § 87(2)(b) and § 87(2)(b) (encl. B5-6).
- PO Castillo has been a member of service for seven years and there are no substantiated allegations against him (encl. B1).
- Sgt. Gomes has been a member of service for 18 years and there are no substantiated allegations against him (encl. B2).
- Det. O'Donnell has been a member of service for 22 years and there is one substantiated allegation against him for force in which he received a command discipline (CCRB case #9502421) (encl. B3).
- Det. Puma has been a member of service for 19 years and there are no substantiated allegations against him (encl. B4).

### Findings and Recommendations

#### Allegations Not Pleaded

§ 87(2)(b) is heard asking for the officers' names on the video footage while asking for and obtaining the officers' shield numbers. The officers provided her with their shield numbers and the name of their command. § 87(2)(b) is heard on the video footage confirming that she wrote down the officers' information, and that the information she obtained was sufficient (encl. E1-4). Additionally, § 87(2)(b) did not allege that the officers refused to provide their names to her (encl. D4-7). Therefore, no refusal to provide name allegations are being pleaded.

On the video of the incident, § 87(2)(b) tells the officers that she heard them state, "Let me the fuck in" while knocking on the door. In response, Det. O'Donnell asks, "You heard us say, 'Let us the fuck in?'" However, because he was merely repeating the statement back to her, no discourtesy allegation is being pleaded.

#### Explanation of Subject Officer Identification

PO Castillo confirmed he knocked on the apartment door prior to entering, and that his asp may have damaged the door; therefore **Allegation A** is pleaded against him (encl. F17-25). Since § 87(2)(b)

§ 87(2)(b) did not see the officers behind the closed door and was unable to see or describe the officer who allegedly cursed when the officers were knocking, and none of the officers admitted to cursing or hearing another officer do so, the officer who allegedly cursed remains unidentified. Therefore, **Allegation B** is pleaded against “an officer.”

PO Castillo, Sgt. Gomes and Det. O’Donnell confirmed entering and searching § 87(2)(b)’s apartment for § 87(2)(b) therefore, **Allegations C, D, and E** are pleaded against them respectively. Though Det. Puma did not acknowledge recognizing himself on the video footage or recalling being present at this incident, PO Castillo, Sgt. Gomes and Det. O’Donnell all confirmed Det. Puma was with them when they entered and searched the apartment, and the video footage confirmed he was inside the apartment. Therefore, **Allegation F** is pleaded against Det. Puma (PO Castillo’s testimony encl.; F17-25; Sgt. Gomes’s testimony encl. F26-F33; Det. O’Donnell’s testimony encl. F34-41; Det. Puma’s testimony encl. F42-48).

§ 87(2)(b) alleged all four of the officers, PO Castillo, Sgt. Gomes, Det. O’Donnell, and Det. Puma, used discourteous language as they entered the apartment. However, she specified one of the officers also spoke discourteously to § 87(2)(b) and later threatened to notify ACS. She described this officer as a heavy white male with a bald head whose shield number is 6480, which belongs to Det. O’Donnell, who is a white male with a bald head and heavy build. Therefore, **Allegations G, H, and I** are pleaded against PO Castillo, Sgt. Gomes and Det. Puma, respectively, and **Allegations J and K** are pleaded against Det. O’Donnell.

### Recommendations

**Allegation A- PO Daniel Castillo damaged § 87(2)(b)’s property.**

**Allegation C- PO Daniel Castillo entered and searched § 87(2)(b) in Staten Island.**

**Allegation D- Sgt. David Gomes entered and searched § 87(2)(b) in Staten Island.**

**Allegation E- Det. Mathew O’Donnell entered and searched § 87(2)(b) in Staten Island.**

**Allegation F- Det. Matthew Puma entered and searched § 87(2)(b) in Staten Island.**

It is undisputed that PO Castillo, Sgt. Gomes, Det. O’Donnell, and Det. Puma arrived at § 87(2)(b) with a Supreme Court arrest warrant and an I-card for § 87(2)(b) § 87(2)(b) believing that the apartment was § 87(2)(b) within the § 87(2)(b). The officers entered § 87(2)(b) without consent and searched for § 87(2)(b) with negative results. The officers testimony and police documentation supports the conclusion that the officers believed that they entered § 87(2)(b) instead of § 87(2)(b). At no point did the officers realize or admit that they entered § 87(2)(b). The officers were familiar with the housing complex before the incident date.

The main entrances of § 87(2)(b) and § 87(2)(b) separate non-interconnecting buildings, have large numerical signs above the entrances. Small signs are also visible on both the front and rear ends of the buildings. One of the signs is located near a rear door which cannot be entered from outside of the building (encl. C3-7).

PO Castillo received § 87(2)(b) case and conducted a DMV search, which he has found to be the most reliable, and determined that § 87(2)(b) resided at § 87(2)(b) (encl. F6, I29).

PO Castillo verified that he was at § 87(2)(b) on the incident date by comparing the building and DMV results (encl. F17-25). Sgt. Gomes verified that the officers entered the correct building by looking at the address sign located above the entrance before entering the building (encl. F26-33).

According to § 87(2)(b) her door knocker and lock were broken, and the front door was chipped, dented and marked (encl. D4-21). § 87(2)(b) provided pictures of the door once the knocker was fixed; however the paint chippings, dents, and marks remained (encl. D22-24). The video footage showed that § 87(2)(b) immediately showed officers damage to her door (encl. E1-4).

PO Castillo knocked loudly on the door of § 87(2)(b) upon arriving first with his fist then with his asp. PO Castillo acknowledged that his asp could have made the circular dents in the front door of § 87(2)(b) apartment. The officers did not recall seeing any damage to the door.

The § 87(2)(b) Property Management Office confirmed that residents of § 87(2)(b) complained that officers entered their apartment and damaged their apartment door on the incident date (encl. D27), and § 87(2)(b) Maintenance Office personnel confirmed that a work order was placed on the incident date for the door (encl. D26).

§ 87(2)(b) alleged that the officers opened shoe boxes and removed clothing from the dresser drawers while searching. § 87(2)(b) confirmed that drawers were pulled out of dressers when she returned to the apartment after the officers had left. PO Castillo believed that he was the only officer to enter and search the bedrooms. The officers consistently stated the scope of the brief search was to locate individuals, specifically § 87(2)(b).

The officers apprehended § 87(2)(b) several days later, on April 10, 2014, inside § 87(2)(b). After the entry into § 87(2)(b) apartment, PO Castillo located a prior arrest report which listed § 87(2)(b) address as § 87(2)(b) Apt. § 87(2)(b). PO Castillo believed that the § 87(2)(b) apartment number was erroneously reflected in the records as § 87(2)(b) instead of § 87(2)(b) because § 87(2)(b) is a less common apartment number.

The statements from NYCHA personnel confirmed that damage was reported to the door of § 87(2)(b). This, in addition to § 87(2)(b) referencing the damage to the door in the video, the photographs provided, PO Castillo's testimony that he knocked on the door with his asp, credits that PO Castillo damaged the door to § 87(2)(b).

In order to effect an arrest, an officer may enter any premises in which he reasonably believes the subject of an arrest warrant to be present. CPL §120.80 (4) (encl. A1).

§ 87(2)(b), § 87(2)(g)  
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**Allegation B- An officer spoke discourteously to § 87(2)(b)**

As addressed in the Explanation of Subject Officer Identification section, the investigation could not identify the officer who allegedly stated, “Let me the fuck in,” while knocking on the apartment door;

§ 87(2)(g)

**Allegation G- PO Daniel Castillo spoke discourteously to § 87(2)(b)**

**Allegation H- Sgt. David Gomes spoke discourteously to § 87(2)(b)**

**Allegation I- Det. Matthew Puma spoke discourteously to § 87(2)(b)**

**Allegation J- Det. Mathew O’Donnell spoke discourteously to § 87(2)(b) and § 87(2)(b)**

According to § 87(2)(b) PO Castillo, Sgt. Gomes, Det. Puma, and Det. O’Donnell allegedly told § 87(2)(b) to sit the “fuck” down. Additionally, Det. O’Donnell allegedly repeatedly told her to sit the “fuck” down each time she asked to see a warrant and allegedly told § 87(2)(b) who was crying, to calm the “fuck” down (encl. D4-7). None of this was captured on the video (encl. E1-4).

PO Castillo testified that did not think he told § 87(2)(b) to sit the “fuck” down and did not hear any other officer do so (encl. F17-25). Neither Sgt. Gomes nor Det. O’Donnell heard any officer say to sit or calm the “fuck” down, and did not do so themselves (encl. F26-33; F34-41). Det. Puma testified that he did not use any profanity during the incident; however, he did not recall being inside the apartment (encl. F42-48).

§ 87(2)(b), § 87(2)(g)

**Allegation K- Det. Mathew O’Donnell threatened to notify Administration for Children’s Services.**

According to § 87(2)(b) she exited her apartment and followed the officers into the hallway of the apartment building, when Det. O’Donnell told § 87(2)(b) to sue him and that he would see her tomorrow. He then asked her if she was going to leave her daughter in the apartment alone and stated he would call ACS. § 87(2)(b) immediately walked back into the apartment (encl. D4-7).

Det. O’Donnell recognized his voice as belonging to the officer who asked § 87(2)(b) on the video footage, if she was going to leave her daughter by herself, and only then recalled that § 87(2)(b) followed the officers into the apartment building hallway. Det. O’Donnell denied speaking to § 87(2)(b) about ACS (encl. F34-41).

PO Castillo also recognized his voice as belonging to the officer who asked § 87(2)(b) on the video footage, if she was going to leave her daughter by herself. Prior to viewing the video, PO Castillo stated that he believed an officer, possibly himself, had stated something about ACS, but he did not recall what was stated or why ACS was mentioned. After viewing the video, he stated that the conversation on the video about her leaving her daughter alone would have probably occurred after ACS was mentioned to her. He stated he may have mentioned ACS because § 87(2)(b) did not initially inform the officers that § 87(2)(b) was inside the apartment or where she was, § 87(2)(b) was

inside the apartment while the officers believed § 87(2)(b) § 87(2)(b) was attempting to hide, and/or § 87(2)(b) was leaving § 87(2)(b) alone in the apartment; he still did not recall exactly why ACS was mentioned after viewing the video. PO Castillo did not see anything inside of the apartment that warranted ACS to be called, so ultimately ACS was not contacted (encl. F17-25).

Sgt. Gomes confirmed § 87(2)(b) followed the officers to the door; however, she did not leave the doorway. Sgt. Gomes did not hear any officer speak to § 87(2)(b) about ACS, and did not see anything that warranted ACS to be called. Sometime after the officers left the apartment, PO Castillo informed Sgt. Gomes that he told § 87(2)(b) § 87(2)(b) that he was going to call ACS on her. Sgt. Gomes asked him why, but did not recall PO Castillo's reasoning. Their conversation then ended because ACS did not need to be called (encl. F26-33).

§ 87(2)(b) is heard on the video bickering with Det. O'Donnell as the officers exited the apartment; their voices begin to echo shortly after, indicating they were both in the hallway of the building. PO Castillo, whose voice is clearly distinguishable from Det. O'Donnell's, is then heard, on the video footage, asking § 87(2)(b) about leaving her daughter alone. Once she tells PO Castillo that her daughter is not alone, she continues to bicker back and forth with Det. O'Donnell who tells § 87(2)(b) that he will see her "tomorrow." § 87(2)(b) then threatened to sue Det. O'Donnell, and he responds by telling her to "go" and leave him alone. No conversation about ACS was captured on the video footage (E1-4).

§ 87(2)(b) accurately identified each officer by their physical descriptions and shield numbers, and was able to distinguish them from one another. She specifically alleged that the officer whom she identified as Det. O'Donnell spoke with her and threatened to notify ACS about her as she followed the officers into the hallway. Although both PO Castillo's testimony and Sgt. Gomes' testimony confirm a conversation about ACS was held, and the investigation ultimately determined that PO Castillo was the officer who asked § 87(2)(b) about leaving her daughter alone, the video footage captured a confrontational conversation between § 87(2)(b) § 87(2)(b) and Det. O'Donnell as the officers exited the apartment, both before PO Castillo asked her about leaving her daughter alone, and after. The video footage confirmed that § 87(2)(b) accurately identified Det. O'Donnell as the officer who stated he would see her "tomorrow" and with whom she spoke about suing him, during this same conversation.

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Team: \_\_\_\_\_

Supervisor: \_\_\_\_\_  
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